

How did the Constitution create a federal system of government?

LESSON PURPOSE

The Constitution organized government in a new way. It created a federal system of government. The Constitution gives certain powers only to the national government and certain powers only to the state governments. There are also certain powers that they share. All other powers are kept by the people.

When you finish this lesson, you should be able to explain what a federal system is. You should know how it differs from other forms of government. You should be able to explain what powers the Constitution gives to the federal government and what powers it gives to the state governments.

17



TERMS TO UNDERSTAND

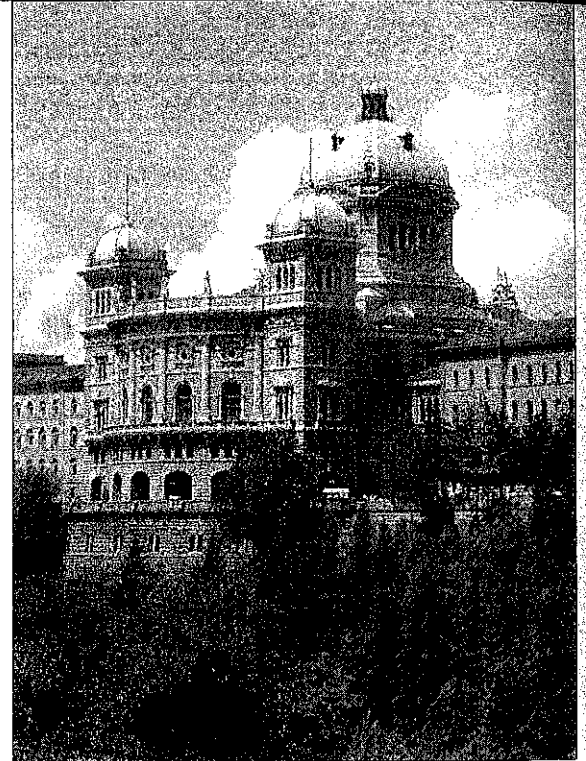


confederation
federal system
federalism
sovereign
supremacy clause
unitary government

How do some other nations organize their governments?

Not all nations organize government in the same way. Some nations have a unitary form of government. A **unitary government** is one in which a central government controls the state and local governments. The central government acts directly on the people. The power of state and local governments comes from the central government and it can be taken away at any time. As a result, the central government is much stronger and more powerful than the state and local governments. The United Kingdom, France, and Sweden are examples of unitary government.

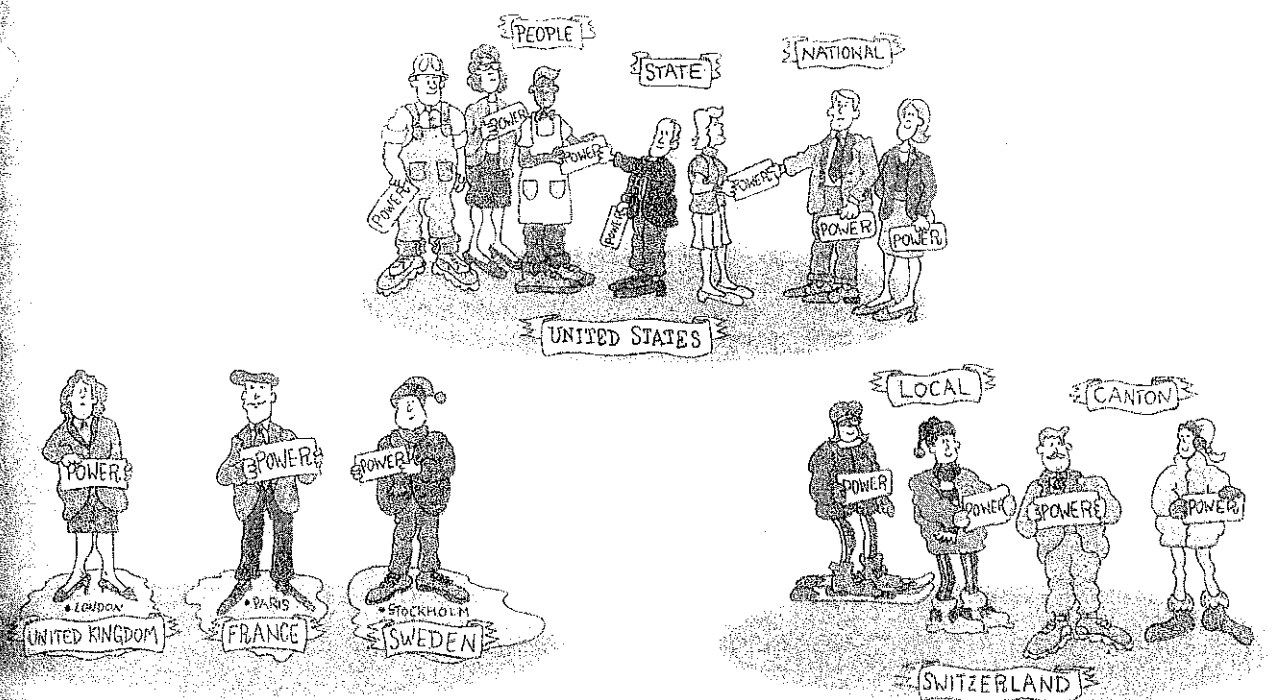
Some nations have a form of government called a confederation. In a **confederation** the states are independent and have control of anything that affects their citizens and territory. In a confederation, the central government only handles those things that are of common concern. The states can withdraw from the confederation at any time. The central government acts on the states, not directly on the people. The United States under the Articles of Confederation had a confederate form of government.



This is the Swiss Bundeshaus, or Parliament. What form of government does Switzerland have? How does it differ from our form of government?

Switzerland is a modern example of a confederation.

Before the Framers created the Constitution, most nations had either a unitary or confederate form of government. The kind of government that the Framers created in our Constitution is a federal system of government.



How do these three types of government differ in their distribution of power?

What is a federal system of government?

According to the natural rights philosophy, the people have a right to create a government. The people delegate to government the right, or authority, to govern them. In return, government is responsible for protecting the people's rights to life, liberty, and property.

The Constitution begins with the words "We the People of the United States." The people have created a government and have given it the authority to govern them. Power flows upward from the people to their government. The people remain sovereign at all times. **Sovereign** means to have the highest rank of authority. The people have ultimate authority to control government.

At the time the Framers wrote the Constitution, the people in most other nations were not sovereign. Governments

held authority over the people. In some countries the king was sovereign.

In a **federal** system of government, the sovereign people decide how to delegate their authority. When creating the Constitution the Framers decided to delegate the power of the people to more than one government. They delegated some powers only to the national government. They delegated other power to the state governments. Some powers, they decided, should be shared by the state and national governments. Finally, all other powers, or rights, are kept by the people.

A federal system of government may also be described as a government that is based on the principle of federalism. **Federalism** refers to the practice of dividing and sharing the powers of government between a central government and regional governments such as state governments.

What powers are delegated to the state and federal governments?

As citizens of the United States, the people delegate certain powers to the federal, or national, government. These powers are in the Constitution. They include the power to

- create post offices
- regulate interstate and foreign trade
- declare and conduct war
- create a national currency



This is President Franklin Roosevelt signing the congressional declaration of war against Japan in December 1941. Why do you think that only the federal government has the authority to engage in war?

As citizens of the various states, the people delegate certain powers to their state governments. These powers are in each state's constitution. They include the power to

- regulate trade within the state
- establish public schools
- create traffic and motor vehicle laws
- regulate marriage and divorce practices

The state and federal governments share certain powers. These include the powers to

- make their own laws
- tax the people
- borrow money
- create their own court system
- provide for the health and welfare of the people

Finally, the people have kept certain rights or powers and have not delegated them to any government. These include the right to

- believe what we wish
- form or join organizations
- select our careers and live our lives as we choose
- choose our friends
- travel where we wish to go inside or outside the country
- raise a family

What powers does the Constitution deny to the federal and state governments?

A constitutional government means that the powers of government are limited. The U.S. Constitution limits the powers of both the federal and state governments.

LIMITS ON THE POWER OF THE FEDERAL GOVERNMENT

The federal government may not

- tax exports
- spend money in a way that is not approved by law
- enact laws that favor trade in one state over the others
- exercise powers that belong to the states
- suspend the right to a writ of habeas corpus, except in a national emergency

LIMITS ON THE POWER OF THE STATE GOVERNMENTS

The state governments may not

- coin or print money
- enter into treaties with other nations
- tax imports or exports
- keep an army or navy in time of peace
- engage in war unless invaded or in immediate danger of being invaded



What powers and rights do the people keep for themselves?

LIMITS ON BOTH THE FEDERAL AND STATE GOVERNMENTS

Neither the federal nor state governments may

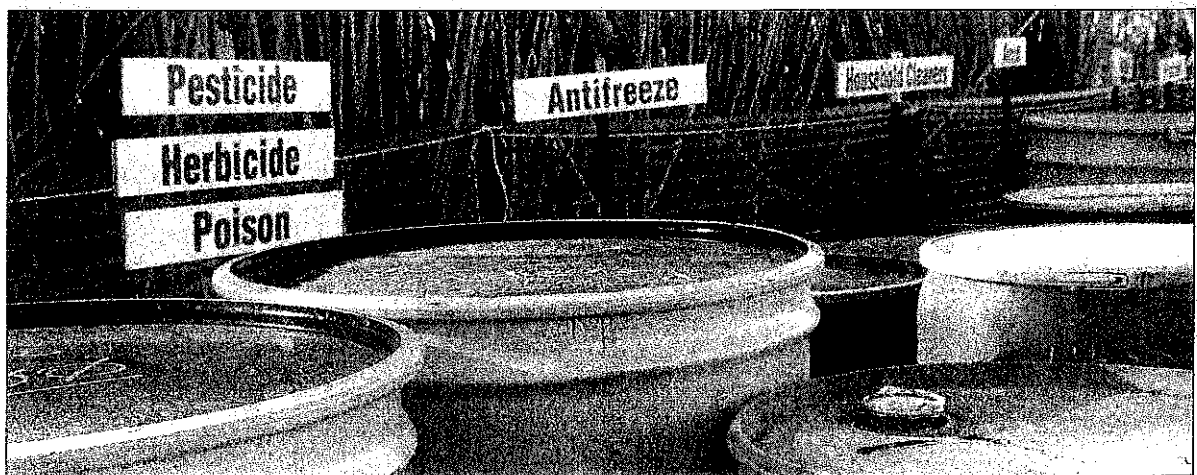
- deny the right to trial by jury
- enact ex post facto laws or bills of attainder
- grant titles of nobility

The Bill of Rights places other limits on federal and state governments. You will examine these in the next unit.

Do state governments or the national government have the power to do what you propose?

Work with a partner. Imagine that you want to do each of the things listed below. First, you need to decide which level of government, state or national, has the power to do what you propose. Examine each item. Decide if the power belongs to the national government, the state governments, both, or neither.

- ① You want a law to help control what people can put on the Internet for children to see and read.
- ② You want to increase the age at which people may buy tobacco to twenty-five.
- ③ You want a law that helps to control who may or may not buy and sell guns.
- ④ You want a law to limit driving privileges for people over eighty-five years of age.
- ⑤ You think that we no longer need a one-cent coin. You want a law to end the minting of pennies.
- ⑥ You want a law to stop the sale of sport shoes made by children who work long hours for little pay in some other countries.
- ⑦ You want a law to make it more difficult for parents of very young children to get a divorce.
- ⑧ You think that the leader of another country is not able to run the government of that country. You want a law to punish anyone who supports this leader.
- ⑨ You want a treaty that requires all nations to pass laws to clean up the air and water.
- ⑩ You want a law to raise the minimum age requirement for children to remain in school.



What part of government would negotiate treaties among nations requiring them to pass laws to clean up the air and water?

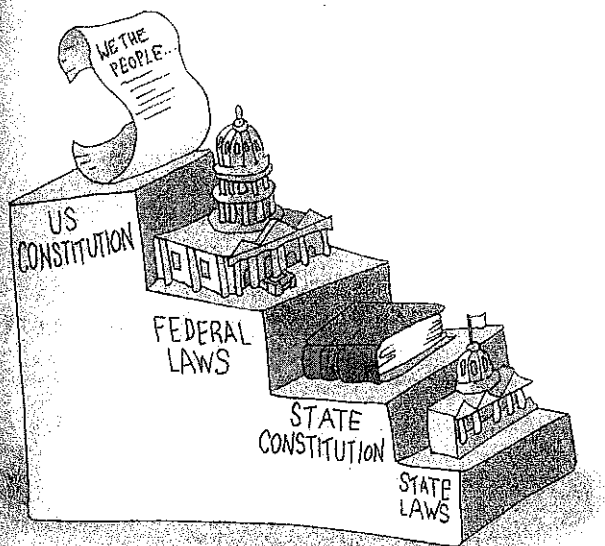
What is the supremacy clause?

There were disagreements among the Framers over what powers the federal government should have. The Framers did agree that the powers of the federal government were to be greater than the powers of the state governments. As you learned in Lesson 16, this is clearly stated in the supremacy clause of Article VI. The supremacy clause says,

This Constitution, and the Laws of the United States...shall be the supreme Law of the Land.

The states cannot make laws that conflict with the Constitution or laws made by Congress.

The supremacy clause gives the courts the power to decide disagreements between the states and the federal government. It does not change the fact, however, that the Constitution limits the powers of both the federal and state governments.



What might be the advantages and disadvantages of the supremacy clause?

How has the relation between federal and state governments changed?

The Framers created a new and very complicated form of government. They could not predict exactly what powers the state and federal governments would eventually have. Early in our history, the state governments were very powerful. Today, the federal government has far more power over the state governments than most of the Framers could have imagined.

In thinking about the relationship between the federal and state governments, it is important to understand the following things:

- In spite of the increase in the power of the federal government, most of the laws that affect us directly are state or local laws. These include laws regarding education, most property, contracts, families, and criminal behavior.
- Congress makes most of the decisions about how much power is left to the states. Congress decides whether the federal or state governments should carry out certain responsibilities.

This complicated system is sometimes not as efficient as a unitary system of government. But the Framers did not see this as a disadvantage. In fact, the Framers thought that the separation of powers between the federal and state governments was one way to protect the rights of the people.

LESSON REVIEW

- ① Explain the major differences between a unitary form of government and a confederation.
- ② What is a federal system?
- ③ What powers does the Constitution delegate to the federal government?
- ④ What powers belong to the states?
- ⑤ What powers do the state and federal governments share?
- ⑥ What powers did the people keep for themselves?
- ⑦ What powers does the Constitution deny to the federal government?
- ⑧ What powers does the Constitution deny to the state governments?
- ⑨ What is the supremacy clause? Why is it important?

ACTIVITIES

- ① Draw a diagram that shows how the federal system works in the United States. Your diagram should show the powers that belong to the states and powers that belong to the national government. Your diagram should also show the powers that both states and the national government share.
- ② Look in a newspaper to find articles that illustrate how the federal system works. You may find articles that illustrate federal powers, state powers, and powers that both levels of government share.
- ③ Plan a short play. Suppose you and a few friends were in a situation like that of the Framers. You must organize a government. Explain to your classmates, the "people," what you think might be some advantages and disadvantages of a federal system of government.
 - Which responsibilities and powers would you give to the national government?
 - Which powers would you give to the state governments?
 - Which powers would you keep for the people?